

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the Application of Britannia Natural Products Limited  
Serial No.: 76/351,742  
Filed: December 21, 2001  
Trademark: ANIMACIN  
Published: March 11, 2003

06-05-2003

U.S. Patent &amp; TMO/TM Mail Rpt Dt. #22

Insight Pharmaceuticals Corporation,  
a Delaware corporation,

Opposer,

v.

Britannia Natural Products Limited,

Applicant.

OPPOSITION NO.: \_\_\_\_\_

TRADEMARK TRIAL AND  
APPEAL BOARD  
03 JUN 13 AM 9:31

**NOTICE OF OPPOSITION**

Assistant Commissioner for Trademarks  
BOX TTAB -- FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Dear Sir or Madam:

Insight Pharmaceuticals Corporation. ("Opposer"), a Delaware corporation, with a place of business located at 90 New Montgomery Street, Suite 712, San Francisco, California 94105 (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of U.S. Trademark Application Serial No. 76/351,742 referenced above. Therefore, in accordance with the provisions of Section 13 of the Trademark Act (15 U.S.C. § 1063), Opposer hereby opposes the application of Britannia Natural Products Limited (herein after referred to as "Applicant") for the mark ANIMACIN.

As grounds for the opposition, Opposer alleges:

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1. Applicant has applied to register the mark **ANIMACIN** for "*antibacterial food supplements for animals; veterinary antibiotic preparations*" in International Class 5.

2. Opposer, and its predecessors in interest, have been and are now engaged in the business of developing, manufacturing, distributing, marketing, and selling a wide variety of pharmaceutical products.

3. Since prior to December 21, 2001, the filing date of the application herein opposed, Opposer, and its predecessors in interest, have used various **ANACIN** and **ANACIN (Stylized)** marks in connection with medicinal and analgesic preparations (collectively, the "**ANACIN Marks**"). Since the adoption and first use of the **ANACIN Marks**, Opposer, and its predecessors in interest, have made substantial and continuous use of the marks in interstate commerce on and in connection with the advertising, promotion, distribution, and sale of medicinal and analgesic preparations.

4. The **ANACIN Marks** are now and ever since their first use have been applied to products, packaging materials, product marketing materials, and product literature. Products and materials so marked are now and have been advertised and promoted and widely shipped, distributed and sold in interstate commerce. The **ANACIN Marks** are famous, well known and of great value to Opposer. In the mind of the trade and public, the **ANACIN Marks** identify and designate Opposer's goods and distinguish them from the goods of others.

5. Opposer is the owner of U.S. Registration No. 0418790 issued January 8, 1946 for the mark **ANACIN (Stylized)**, in connection with "*medicinal preparation for internal use, acting as an analgesic to relieve pain,*" in International Class 5; U.S. Registration No. 0940857 issued August 15, 1972 for the mark **ANACIN**, in connection with "*analgesic preparations,*" in International Class 5; and U.S. Registration No. 0123606 issued November 19, 1918, for the mark **ANACIN (Stylized)**, in connection with "*medicinal preparation for internal use in cases of headache, neuralgia, and pains centering on the trigeminal nerve,*" in International Class 5. Opposer's registrations are valid, unrevoked and uncanceled, and in full force and effect. Opposer owns these registrations and the trademarks shown thereby and all the business and goodwill connected with said marks in the United States.

6. Applicant's **ANIMACIN** mark so resembles Opposer's previously used and registered **ANACIN Marks** as to be likely, when applied to Applicant's goods, to cause confusion, mistake or deception with consequent injury to Opposer and the public.

7. The granting of the requested registration to Applicant is deemed likely to result in confusion and mistake with Opposer and Opposer's trademarks and/or result in the incorrect belief that Applicant or its goods for which registration is sought herein are in some way connected with, sponsored by or approved by Opposer.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's mark and prays that it be denied.

Please recognize as attorneys for Opposer Perry J. Viscounty and Laura E. Hayward and the firm of Latham & Watkins LLP, 650 Town Center Drive, Suite 2000, Costa Mesa, California 92626-1925. Please address all communications to Laura E. Hayward of Latham & Watkins LLP at the address set forth below.

This opposition is hereby submitted in duplicate pursuant to 37 C.F.R. 2.104.

Respectfully submitted,

LATHAM & WATKINS LLP

Dated: June 4, 2003

By:

Laura E. Hayward  
Laura E. Hayward  
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Costa Mesa, California 92626-1925  
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Insight Pharmaceuticals Corporation

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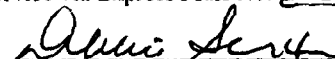
## LATHAM & WATKINS LLP

June 4, 2003

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File No. 030301-0002-211

**CERTIFICATE OF MAILING:** I hereby certify that the below listed correspondence and documents are addressed to the Assistant Commissioner of Trademarks, BOX TTAB—FEE, 2900 Crystal Drive, Arlington, Virginia, 22202-3513, and are being deposited with the United States Postal Service via Express Mail No. 6530091865 US on June 4, 2003 by:

  
Debbie Schuster

### VIA EXPRESS MAIL

Assistant Commissioner of Trademarks  
BOX TTAB -- FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513



06-05-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Re: Notice of Opposition Filed Against Trademark Application Serial No. 76/351,742  
For the Mark: **ANIMACIN**  
Application Filed By: Britannia Natural Products Limited  
Opposer: Insight Pharmaceuticals Corporation


Dear Sir or Madam:

Enclosed for filing are the following documents filed on behalf of Opposer, Insight Pharmaceuticals Corporation.:

1. Notice of Opposition (original + 2 copies);
2. A check in the amount of \$300, and
3. A stamped, self-addressed postcard to acknowledge receipt.

Please charge Deposit Account No. 500524 for any additional fees which may be required, or credit any overpayment to this account. Should you have any questions regarding the enclosed Notice of Opposition and accompanying documents, please contact Julie L. Dalke or me. Thank you for your assistance.

Sincerely,

  
Anna T. Kwan  
Intellectual Property Paralegal

Enclosures

cc: Julie L. Dalke, Esq.  
Ms. Karen Miyakawa